

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE AT KNOXVILLE**

SHARISTA GILES

Plaintiff,

vs.

No. _____

**HOMETOWN FOLKS, LLC
and JEFF BEALER,**

Defendants.

COMPLAINT

Comes now the Plaintiff, Sharista Giles, by and through counsel, and files this complaint against Hometown Folks, LLC, a Tennessee Limit Liability Company and Jeff Bealer, the Defendants and would show this Honorable Court as follows:

I. Jurisdiction

1. This action arises under the Tennessee Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, and the common law regarding intentional, reckless, and negligent infliction of emotional distress. This court has jurisdiction over the federal claims pursuant to 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1331, and supplemental jurisdiction over the state claims pursuant to 28 U.S.C. § 1367(a).
2. The unlawful acts and practices that are alleged in this complaint were committed at the Burger King restaurant, at 160 New Highway 68, Sweetwater, Tennessee 37874 in Monroe County, Tennessee. Venue for this action is accordingly vested in this court pursuant to 28 U.S.C. §1391(a).

II. Parties

3. The Plaintiff, Sharista Giles is a female citizen of Sweetwater, Tennessee. Ms. Giles was employed by Hometown Folks, LLC at the Burger King in Sweetwater, Tennessee. Ms. Giles was employed from August 2011 to January 2012.
4. The Defendant, Hometown Folks, LLC is a Tennessee Limited Liability Company qualified to do business in the State of Tennessee. The registered agent for service of process for this Defendant is S. Elliot Davenport, located at the principal place of business at Suite 201, 2401 Broad Street, Chattanooga, Tennessee 37408-2922. Hometown Folks, LLC is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, and Tennessee Code Annotated §4-21-102(4) because it engages in a industry that affecting commerce and it has employed more than fifteen people in more than twenty calendar weeks in the current or preceding calendar year.
5. The Defendant, Jeff Bealer is a citizen and resident of Bradley County, Tennessee and may be served with process at 637 Village Green Drive Northwest, Cleveland, Tennessee 37312. Bealer was an employee of Hometown Folks, LLC at all time relevant to the allegations contained in this complaint.

III. Statement of Facts

6. From August 2011 to January 2012, Defendant Bealer sexually harassed the Plaintiff, Ms. Giles and created a sexually hostile work environment. During these times, Defendant Bealer was Assistant Manager and supervisor over Ms. Giles. Despite protests of Ms. Giles, Bealer constantly making sexually charged comments toward Ms. Giles, using sexually charged language in presence of Ms. Giles, and invaded her personal space, all which was reported to the manager, Mike Tomlinson.

7. On December 19, 2011, Ms. Giles was working a 8:00 a.m. to 4:00 p.m. shift, when Defendant Bealer came to work at 2:00 p.m. as the closing manager. As Ms. Giles was stocking her area before she left for the day, she had her back to Defendant Bealer as she reached for a top shelf. At which point, Defendant Bealer touched Ms. Giles with a “grease pencil” in her genital area from behind her. As Ms. Giles turned around, Defendant Bealer stated, “You liked that didn’t you.”
8. In a state of shock, Ms. Giles attempted to get passed Defendant Bealer to flee the area, at which point he grabbed her belt buckle, pulling her toward him and touching her breasts.
9. The next day, Ms. Giles reported this incident to her manager, Mike Tomlinson, who took no action regarding the incident and upon returning to work, Ms. Giles endured continued verbal abuse from Defendant Bealer. After leaving work on this day, December 20, 2011 she made a report to Sweetwater Police Department.
10. After making a report to Sweetwater Police Department, Ms. Giles endured retaliation from the management acting on behalf of Defendant Hometown Folks, LLC (Burger King) and began to cut her scheduled work hours, and eventually causing her to quit, constructively terminating her employment.
11. The facts of the incident are such that Defendant Bealer’s actions are intolerable and outrageous in a civilized society and Defendant Bealer’s treatment of Ms. Giles would not have occurred but for Ms. Giles being a female. At the time of this incident, Ms. Giles was seventeen years old.
12. Hometown Folks, LLC either negligently, recklessly, or intentionally failed to adequately supervise Bealer. Hometown Folks, LLC also either negligently, recklessly, or intentionally failed to terminate Bealer. Hometown Folks, LLC further either negligently,

recklessly, or intentionally failed to sufficiently investigate Ms. Giles claims of harassment. Had Hometown Folks, LLC not failed in these respects, Ms. Giles' injuries would have been mitigated. Hometown Folks, LLC's negligent, reckless, and/or intentional wrongdoing enabled Bealer to engage in his outrageous conduct, and thus was a direct and proximate cause of the emotional distress such conduct caused Ms. Giles to suffer. Hometown Folks, LLC's conduct is outrageous and is intolerable in civilized society.

13. Hometown Folks, LLC, by the acts and omissions alleged herein, created such an intolerable working atmosphere that a reasonable person could not be expected to continue to work there. Accordingly, any resignation submitted by Ms. Giles was in effect a constructive discharge by Hometown Folks, LLC.
14. Plaintiff has met the jurisdictional prerequisite of 42 U.S.C. §§ 2000e et seq. by timely filing a written charge of discrimination with the Equal Employment Opportunity Commission. A copy of the charge is attached as Exhibit A. Plaintiff received a Right to Sue notice dated October 30, 2011. A copy of that notice is attached as Exhibit B.
15. Defendants' actions have caused Ms. Giles to suffer severe emotional injury including stress, anxiety, and emotional distress. Defendants' actions have also caused Ms. Giles to suffer physical injury including fatigue, headaches, and pain. Further, Giles has sustained and suffered great mental anguish resulting from the embarrassment and humiliation she experienced because of the discriminatory practices of the Defendants.

WHEREFORE, Plaintiff demands judgment as follows:

1. Damages for lost wages and employment benefits.
2. Compensatory Damages for humiliation and embarrassment, pain and suffering, and

emotional distress as are allowed under the provisions of TENN. CODE ANN. § 4-21-101, 42 U.S.C. § 1981(b), and/or the common law of the State of Tennessee.

3. Damages for past and future physical suffering and reimbursement of medical expenses.
4. Attorney's fees and costs.
5. Interest, as allowed by law or equity.
6. Further legal and/or equitable relief as may be appropriate to effectuate the purposes of the Tennessee Human Rights Act and Title VII of the Civil Rights Act of 1964, as amended.
7. Punitive damages as may be permitted by 42 U.S.C. § 1981(b) or by applicable state law.
8. The Plaintiff demands a trial by jury of all issues so triable.

SHARISTA GILES, Plaintiff

BY:



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